



Entered on Docket
November 19, 2007

A handwritten signature in dark ink, appearing to read "Linda B. Riegle".

Hon. Linda B. Riegle
United States Bankruptcy Judge

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Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE
COMPANY,

USA CAPITAL REALTY ADVISORS,
LLC,

USA CAPITAL DIVERSIFIED TRUST
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED
FUND, LLC,

USA SECURITIES, LLC,

Debtors.

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR
Case No. BK-S-06-10729-LBR

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

Date of Hearing: October 15, 2007
Time of Hearing: 9:30 a.m.

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

ORDER SUSTAINING THE USACM LIQUIDATING TRUST'S OBJECTION TO CLAIM NO(S). 10725-02548, 10725-02549-1 AMENDED BY 10725-02549-2, 10725-02550 FILED BY OSVALDO ZUNINO LIVING TRUST DTD 12/18/98 AS IMPROPERLY ASSERTING SECURED STATUS

Osvaldo Zunino Living Trust dtd 12/18/98 (the "Zunino Trust") filed Proof of Claim No(s). 10725-02548, 10725-02549-1, amended by 10725-02549-2, and 10725-02550 which asserted secured claims against USA Commercial Mortgage Company ("USACM").

The USACM Liquidating Trust (the "USACM Trust") filed an Objection [DE 4290] (the "Objection"), which challenged the Zunino Trust's assertion of secured status and sought to reclassify Claim Nos. 10725-02548, 10725-02549-1, as amended by 10725-02549-2, and 10725-02550. as general unsecured claims.

Simultaneously with the Objection, the USACM Trust filed its Motion for Summary Judgment Regarding (1) Responses to the USACM Trust's First Through Thirty-Third Omnibus Objections to Claims Asserting a Secured Status; (2) Responses to USACM Trust's First through Third Omnibus Objections to Claims Asserting a Priority Status; and (3) Newly Alleged Secured and Priority Claims (the "Motion") [DE 4291]. The Motion sought summary judgment on the Objection and asked that the Court sustain the Objection.

Appropriate notice of the Objection and the Motion was given to the Zunino Trust.

The Zunino Trust responded to the Motion [DE 4627], opposing it.

At a hearing on October 15, 2007, the Court heard oral argument on the Motion from counsel for the USACM Trust. The Zunino Trust did not appear at the hearing.

Based upon the foregoing and good cause appearing,

IT IS HEREBY ORDERED:

1. Granting the Motion [DE 4291] as it relates to Proof of Claim No(s). 10725-02548, 10725-02549-1, as amended by 10725-02549-2, and 10725-02550 filed by the Zunino Trust;

3. Reclassifying Proof of Claim No(s). 10725-02548, 10725-02549-1, as amended by 10725-02549-2, and 10725-02550 filed by the Zunino Trust as general unsecured claims subject to further objection by the USACM Liquidating Trust.

PREPARED AND SUBMITTED:

10 LEWIS AND ROCA LLP

By: /s/ RC (#0006593)
Susan M. Freeman (pro hac vice)
Rob Charles
John Hinderaker (pro hac vice)
Attorneys for USACM Liquidating Trust

CERTIFICATION OF COUNSEL PURSUANT TO LOCAL RULE 9021

In accordance with Local Rule 9021, the undersigned certifies:

- ☐ The Court waived the requirements of LR 9021.
- ☒ I have delivered a copy of this proposed order to all counsel who appeared at the hearing, any unrepresented parties who appeared at the hearing, and any trustee appointed in this case, and each has approved or disapproved the order, or failed to respond, as indicated below:
- ☐ approved the form of this order;
- ☐ waived the right to review the order;
- ☐ failed to file and serve papers in accordance with LR 9021(c); and/or
- ☒ failed to sign and return this proposed order within five (5) business days in accordance with LR 9021(b) (Osvaldo Zunino, Trustee of Osvaldo Zunino Living Trust dtd 12/18/98).
- ☐ I have delivered a copy of this proposed order to all attorneys and unrepresented parties who appeared at the hearing regarding this matter and/or who filed a written objection and all have either approved the form of this order, waived the right to review the order, failed to file and serve papers in accordance with LR 9021(c) and the following have disapproved the form of the order.
- ☐ No opposition was filed and no other party or counsel appeared at the hearing.

LEWIS AND ROCA LLP

APPROVED/DISAPPROVED

By: /s/ RC (#0006593)

Susan M. Freeman
Rob Charles

Attorneys for USACM Liquidating Trust

Osvaldo Zunino, Trustee
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